

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**JAMES H. CLARK,**

**Plaintiff,**

**vs.**

**ST. LOUIS PUBLIC SCHOOLS, ET. AL.,**

**Defendants.**

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**Case No. 4:05CV1299SNL**

**ORDER**

*Pro se* plaintiff has filed this Americans with Disability Act (ADA), 42 U.S.C. §12111 *et. seq.*, employment discrimination action alleging that he was denied an accommodation, a promotion, and was subjected to a hostile work environment on the basis of a purported disability.<sup>1</sup> This matter is before the Court on the plaintiff's "motion for judgement [**sic**] by default against the defendants citing non-compliance of FRCP Rule 12(a)(1)(A)" (#55), filed January 13, 2005. Defendant St. Louis Public Schools has filed a responsive pleading.<sup>2</sup>

As far as the Court can tell, the plaintiff appears to argue that defendant St. Louis Public Schools (SLPS) was untimely in filing its answer to his complaint. He asserts that defendant SLPS was served on September 7, 2005 and its answer was due on or before September 26, 2005. He contends that SLPS did not file its answer until December 21, 2005.

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<sup>1</sup>Plaintiff's purported disability appears to be Attention Deficit Disorder.

<sup>2</sup>Although plaintiff repeatedly refers to "defendants"; i.e. in the plural, the only remaining defendant in this case is defendant St. Louis Public Schools. Defendants Crues, Hutchins, and Warmack were dismissed as of October 26, 2005. *See*, Court Orders #35 and #36. Defendant Hopper was never properly served. *See*, Court Order #37, filed October 26, 2005 and Court Order #44, filed November 4, 2005.

The Court has carefully reviewed the docket sheet in this case. Plaintiff is correct in that defendant SLPS was served on September 7, 2005 and its answer was due on or before September 26, 2005. However, contrary to the plaintiff's assertion, the docket sheet clearly shows that defendant SLPS filed its answer on September 26, 2005. *See*, #25. What was filed on December 21, 2005 was SLPS' currently pending motion to dismiss and memorandum in support. *See*, Documents #50 and #51. Defendant SLPS filed its answer in this case in a timely manner.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's "motion for judgement [sic] by default against the defendants citing non-compliance of FRCP Rule 12(a)(1)(A)" (#55) be and is **DENIED**.

Dated this 25th day of January, 2006.

A handwritten signature in cursive script, reading "Stephen L. Limbaugh". The signature is written in dark ink and is positioned above a horizontal line.

SENIOR UNITED STATES DISTRICT JUDGE